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CENTRAL FAX CENTER

JUN 19 2006



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Examiner: Greg C. BENZON	Sumit Bhattacharya
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USPTO	June 19, 2006
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	Intel 2207/14007
RE:	YOUR REFERENCE NUMBER:
Application No.: 10/083,557	Group Art Unit: 2144

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APPEAL BRIEF

1. Fax Cover Sheet (1)
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 3. Appeal Brief (15)
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Dated: June 19, 2006

Signature: Barbara Vance

Barbara Vance

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**FEE TRANSMITTAL
for FY 2005**

Effective 10/01/2004. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT (\$)** 500.00**Complete if Known**

Application Number **10/083,557**
 Filing Date **February 27, 2002**
 First Named Inventor **Steve SCHNETZLER**
 Examiner Name **Greg C. BENGZON**
 Art Unit **2144**
 Attorney Docket No. **Intel 2207/14007**

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Name**Kenyon & Kenyon LLP**

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FEE CALCULATION**1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	750	2001	395	Utility filing fee	
1002	350	2002	175	Design filing fee	
1003	550	2003	275	Plant filing fee	
1004	750	2004	395	Relasue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1)					(\$) 0

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims			
Multiple Dependent			

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1202	50	2202	25	Claims in excess of 20	
1201	200	2201	100	Independent claims in excess of 3	
1203	380	2203	180	Multiple dependent claim, if not paid	
1204	200	2204	100	** Reissue independent claims over original patent	
1205	50	2205	25	** Reissue claims in excess of 20 and over original patent	
SUBTOTAL (2)					(\$) 0

**or number previously paid, if greater. For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1,020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1,080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	500.00
1403	1,000	2403	500	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	500	2452	250	Petition to revive - unavoidable	
1453	1,500	2453	750	Petition to revive - unintentional	
1501	1,400	2501	685	Utility issue fee (or relasue)	
1502	490	2502	245	Design issue fee	
1503	860	2503	430	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) **(\$)** 500.00**SUBMITTED BY**

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Date

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JUN 19 2006

Patent

Attorney Docket No.: Intel 2207/14007
Assignee: Intel Corporation
Confirmation No.: 5880**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANTS : Steve SCHNETZLER
SERIAL NO. : 10/083,557
FILED : February 27, 2002
TITLE : SERVER PERSISTENCE USING A URL IDENTIFIER
GROUP ART UNIT : 2144
EXAMINER : Greg C. BENGZON

VIA FACSIMILE

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Commissioner for Patents
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Alexandria, VA 22313-1450

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Dated: June 19, 2006	Signature <u>Barbara Vance</u> Barbara Vance

ATTENTION: Board of Patent Appeals and Interferences**APPEAL BRIEF**

Dear Sir:

This brief is in furtherance of the Notice of Appeal, filed in this case on April 17, 2006.

06/20/2006 MBINAS 00000058 110600 10003557
01 FC:1402 500.00 DA

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1. **REAL PARTY IN INTEREST**

The real party in interest in this matter is Intel Corporation. (Recorded February 27, 2002, Reel/Frame 012662/0707).

2. **RELATED APPEALS AND INTERFERENCES**

There are no related appeals.

3. **STATUS OF THE CLAIMS**

Claims 1-21 are pending in the application. Claims 1-21 are rejected under 35 U.S.C. §103(a) as being unpatentable over O'Neil et al., U.S. Patent No. in view of Barrera et al., U.S. Patent No. 6,748,448.

4. **STATUS OF AMENDMENTS**

Applicants did not make any amendments to the claim subsequent to final rejection. The claims listed on page 1 of the Appendix attached to this Appeal Brief reflect the present status of the claims (including amendments entered after final rejection).

5. **SUMMARY OF THE CLAIMED SUBJECT MATTER**

The embodiment of claim 1 is generally directed to a method comprising: receiving a request for the data from a client computer (*see e.g.*, page 4, paragraph [0014] – Figure 2, 100); sending the request to a first server of a plurality of servers (*see e.g.*, page 4, paragraph [0015] – Figure 2, 110); receiving the data from the first server (*see e.g.*, page 5, paragraph [0017] – Figure 2, 140); and adding an identity of the first server to the data and forwarding the data to

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the client computer (*see e.g.*, page 5, paragraph [0018] – Figure 2, 150).

The embodiment of claim 8 is generally directed to a load balancer comprising: a processor; and memory; wherein said processor is adapted to: receive a request for data from a client computer (*see e.g.*, page 4, paragraph [0014] – Figure 2, 100); send the request to a first server among a plurality of servers (*see e.g.*, page 4, paragraph [0015] – Figure 2, 110); receive the data from the first server (*see e.g.*, page 5, paragraph [0017] – Figure 2, 140); and add an identity of the first server to the data and forward the data to the client computer (*see e.g.*, page 5, paragraph [0018] – Figure 2, 150).

Claim 15 is directed to a computer readable medium having instructions stored thereon that, when executed by a processor, cause the processor, after receiving a request for data from a client computer, to: send the request to a first server among a plurality of servers (*see e.g.*, page 4, paragraph [0015] – Figure 2, 110); receive the data from the first server (*see e.g.*, page 5, paragraph [0017] – Figure 2, 140); and add an identity of the first server to the data and forward the data to the client computer (*see e.g.*, page 5, paragraph [0018] – Figure 2, 150).

Fig. 1 is a block diagram of a system in accordance with one embodiment of the present invention. Fig. 2 is a flow diagram of the steps performed by a load balancer in accordance with one embodiment of the present invention.

6. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

A. Are claims 1-21 rendered obvious under 35 U.S.C. §103(a) over O'Neil et al., U.S. Patent No. 6,128,279 hereinafter ("O'Neil") in view of Barrera et al., U.S. Patent No. 6,748,448 hereinafter ("Barrera")?

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7. **ARGUMENT**

A. Claims 1-21 are not rendered obvious under 35 U.S.C. §103(a) over O'Neil in view of Barrera.

Applicant respectfully submits the cited references do not teach, suggest or describe “[a] method of accessing data from a plurality of servers comprising: ... *adding an identity of the first server to the data and forwarding the data to the client computer*” (e.g., as described in the embodiment of claim 1).

Applicant agrees with the Examiner's assessment that O'Neil does not describe adding an identity of the first server to the data and forwarding the data to the client computer. See Office Action, page 7. It claims Barrera describes receiving a request for network content and modifying the URL, *such that the URL request resource file physical I/O address is preferably embedded* in the client computer browser page URL link (citing column 4 lines 10-50, column 8 lines 50-65, column 9 lines 1-10). Applicant respectfully disagrees; as shown below, describing *a physical I/O address of a resource file* is not the equivalent of *adding an identity of the first server* to the data and forwarding the data to the client computer as specifically recited in the claims.

The first portions of this section merely describe using a URL addressing scheme for efficiently accessing resource files on a networked server system. See Column 4, lines 10-25. As asserted by the Examiner, this section further describes: “The URL request resource file physical I/O address is preferably embedded in the client computer browser page URL link, pre-establishing a correspondence between the browser page element and the resource file.” See Column 4, lines 25-29. However, as argued above this section does not describe the

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relevant limitations as recited in the embodiment of claim 1. The last portion of the cited section describes:

In the system embodiment of the present invention corresponding to this method embodiment, the data storage device controller is directly connected to the network and has a destination IP address, to allow accessing the requested resource file on the data storage device directly, *and to allow the transfer of the requested resource file, between the data storage device and the client network access equipment, to be directly performed by the data storage device controller. (emphasis added)*

Interestingly, this section of the Barrera reference does not describe *the use of a server* to perform the transfer of the requested file, much less the adding of an identity of a first server to a data request return as claimed in multiple embodiments.

An examination of the introductory section (column 8, lines 30-40) to the Examiner's cited section of column, lines 50-65 explains why. The cited section column 8, lines 50-65 describes some of the steps of the requesting and retrieval of data according to Barrera wherein "...a physical I/O address is included in the complete URL address" without any further explanation of the embedding process. See column 8, lines 40-44. However, the introductory section referred to above describes:

In another preferred embodiment of the present invention, shown in FIG. 3, *the function of returning the resource file to the client 100 is directly performed by the data storage device controller 102, and a URL includes a physical I/O address of a resource file. In this aspect of the invention the resource file is sent directly to the requesting client, without use of a server 104. For this purpose the data storage device controller 102 protocol, such as SCSI or IDE protocol is used and the data storage device controller 102 is directly connected, via connection 108 and LAN connection 112, to the internet 106, and has its own IP address. (emphasis added)*

Therefore, this introductory section makes it clear that the retrieval of any requested file is

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performed by a data storage device controller, separate from any server. Barrera specifically teaches away from the use of a server. Therefore, it is clear that the embedded physical I/O address of a resource file does not include an identity of a server responsible for forwarding the requested data to the client computer (*e.g.*, as described in the embodiment of claim 1), because Barrera does not require the use of servers at all in its retrieval process.

The last cited section of Barrera (column 9, lines 1-10) merely confirms this conclusion. It restates: “In this preferred embodiment of the present invention, the host server 104 and the stack are bypassed. The data storage device controller 102 incorporates the Web network interface to interpret the request and return the requested resource file.” *See* column 9, lines 5-9. Therefore, it is clear that Barrera and O’Neil fail to describe at least these limitations of the embodiment of claim 1.

Applicant maintains that the embedded address of Barrera is inadequate in other ways as well. As shown in multiple instances above, the embedded address of Barrera is a physical I/O address, otherwise known as a MAC address or ethernet address (*e.g.*, 00 0A 27 91 40 FC). A MAC is not the same as, for example, an IP identifying address. A MAC address is a hardware address used for interface with the network medium in the OSI network standard. Applicant submits a MAC address is not sufficient to describe an identity of a first server as specifically recited in the embodiment of claim 1.

The Examiner also asserts that because column 8, lines 5-10 of Barrera describes that while responding to client requests, the IP address of a *device controller* is embedded in the URL request, that this is the equivalent of *adding an identity of the first server* to the data and forwarding the data to the client computer. Applicant disagrees. Column 8, lines 5-10 of

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Barrera state:

In this preferred embodiment of the present invention *a URL address has the following content*, assuming contiguous storage of resource file blocks:

*http://.....<IP Address or Hostname of
Controller>/<LUN#>/<StartBlock#>,<NumberOfBlocks>*

In the disclosed preferred embodiment, *the URL identifies a specific data storage device controller and its logical unit number*, a physical block start address of the resource file on the data storage device and a number of blocks used for the resource file, and thus step 6 of a conventional system is bypassed. (*emphasis added*)

Therefore, as described in the Barrera reference “a URL address has the following content”: the *identity of a specific data storage device controller* and its logical unit number (italicized in the exemplary URL), a physical block start address of the resource file on the data storage device and a number of blocks used for the resource file.

Moreover, even if Applicants were to assume, only *arguendo*, that the identity of the controller and the server are the same (they may not be), there is nothing in the Barrera reference that teaches “...adding an identity of the first server *to the data* and forwarding the data to the client computer”, as described in embodiments of the present application. Column 7, line 25 to column 8, line 10 of Barrera (including the cited section column 8, line 5-10) is intended to describe the request and transfer of a resource file between computers. See column 7, lines 25-26. This description includes the selection and subsequent of *sending* of a requested URL address. See column 7, lines 55-63. Therefore, the URL address cited by the Examiner is merely *sent* as an identifier to aid in the locating of the requested resource file stored on the “Web server host”. See column 7, lines 64-67.

Therefore, Applicants submit that the cited URL address of Barrera is *sent* as part of an

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instruction request sent to the *host server* to *initiate the locating* of the requested file. Barrera does not describe at least including an URL address as part of a *retrieval* process to be sent to the *requesting* party. The Examiner further cites column 6, lines 20-30 of Barrera, which state:

Each selectable item on Web pages displayed on a Web site has an embedded URL address, with the physical I/O address of the corresponding Web page file located on its data storage device 20, preferably a SCSI device with a connection 21 to the server 14. Therefore, when a Web page is served by the Web server 14 to the client 10, *the client browser can send to the Web server 14 a request with a complete URL link to a selectable Web page, including its physical I/O address.* Thus, *the request* can be passed by the server 14 directly to the data storage device 20 controller, avoiding the file I/O layer. (*emphasis added*)

The cited section describes the embedding a URL address with the physical I/O address. However, it also describes *a client browser sending a request* with a URL link. Such a request is passed on to the server 14 *as part of the request*. There is no mention of the sending of a URL address as part of a retrieval process to be sent to the requesting party in the cited section, and it definitely does not include a description of “... *adding an identity of the first server to the data* and forwarding the data *to the client computer*” as described in embodiments of the present application. . In order to support a proper §103(a) rejection, the cited references must include a similar teaching, suggestion or description. The Barrera reference does not.

Therefore, since each and every element of claim 1 is not taught, suggested or described by the cited references, Applicant respectfully submits that the §103(a) rejections are lacking and should be withdrawn. Likewise, independent claims 8 and 15 include similar limitations. Claims 2-7, 9-14, and 16-20 depend from and further define allowable independent claims 1, 9, and 15, and therefore are allowable as well.

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CONCLUSION

Appellants therefore respectfully request that the Board of Patent Appeals and Interferences reverse the Examiner's decision rejecting claims 1, 3-9, 11-17, 19-25 and 27-32 and direct the Examiner to pass the case to issue.

The Examiner is hereby authorized to charge the appeal brief fee of \$500.00 and any additional fees which may be necessary for consideration of this paper to Kenyon & Kenyon LLP Deposit Account No. 11-0600.

Respectfully submitted,

KENYON & KENYON LLP

Date: June 19, 2006

By:


Sumit Bhattacharya

(Reg. No. 51,469)

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APPENDIX

(Brief of Appellant Steve SCHNETZLER
U.S. Patent Application Serial No. 10/083,557)

8. CLAIMS ON APPEAL

1. (Previously Presented) A method comprising:

receiving a request for the data from a client computer;

sending the request to a first server of a plurality of servers;

receiving the data from the first server; and

adding an identity of the first server to the data and forwarding the data to the client computer.
2. (Original) The method of claim 1, further comprising:

determining whether the request includes a server identifier.
3. (Original) The method of claim 1, wherein the request is a Uniform Resource Locator (URL).
4. (Original) The method of claim 1, wherein the data is a HyperText Markup Language (HTML) page.

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5. (Original) The method of claim 4, wherein the HTML page comprises at least one Uniform Resource Locator (URL), and the adding the identity of the first server comprises revising the at least one URL to include a server identifier that corresponds to the first server.
6. (Original) The method of claim 2, wherein the sending the request to the first server comprises a load balancing algorithm.
7. (Original) The method of claim 2, wherein the sending the request to the first server comprises sending the request to a server identified by the server identifier.
8. (Original) A load balancer comprising:
a processor; and
memory;
wherein said processor is adapted to:
receive a request for data from a client computer;
send the request to a first server among a plurality of servers;
receive the data from the first server; and
add an identity of the first server to the data and forward the data to the client computer.
9. (Original) The load balancer of claim 8, said processor further adapted to: determine whether the request includes a server identifier.

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10. (Original) The load balancer of claim 8, wherein the request is a Uniform Resource Locator (URL).
11. (Original) The load balancer of claim 8, wherein the data is a HyperText Markup Language (HTML) page.
12. (Original) The load balancer of claim 11, wherein the HTML page comprises at least one Uniform Resource Locator (URL), and the processor adds the identity of the first server by revising the at least one URL to include a server identifier that corresponds to the first server.
13. (Original) The load balancer of claim 9, wherein the processor sends the request to the first server by executing a load balancing algorithm.
14. (Original) The load balancer of claim 9, wherein the processor sends the request to the first server by sending the request to a server identified by the server identifier.
15. (Original) A computer readable medium having instructions stored thereon that, when executed by a processor, cause the processor, after receiving a request for data from a client computer, to:
 - send the request to a first server among a plurality of servers;
 - receive the data from the first server; and
 - add an identity of the first server to the data and forward the data to the client computer.

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16. (Original) The computer readable medium of claim 15, said instructions further cause said processor to:

determine whether the request includes a server identifier.

17. (Original) The computer readable medium of claim 15, wherein the request is a Uniform Resource Locator (URL).

18. (Original) The computer readable medium of claim 15, wherein the data is a HyperText Markup Language (HTML) page.

19. (Original) The computer readable medium of claim 18, wherein the HTML page comprises at least one Uniform Resource Locator (URL), and the adding the identity of the first server comprises revising the at least one URL to include a server identifier that corresponds to the first server.

20. (Original) The computer readable medium of claim 16, wherein the sending the request to the first server comprises a load balancing algorithm.

21. (Original) The computer readable medium of claim 16, wherein the sending the request to the first server comprises sending the request to a server identified by the server identifier.

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9. EVIDENCE APPENDIX

No further evidence has been submitted with this Appeal Brief.

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10. RELATED PROCEEDINGS APPENDIX

Per Section 2 above, there are no related proceedings to the present Appeal.